

Internal Revenue Service

memorandum

CC:TL-N-8249-88

Brl:DLFischer

date: SEP 20 1988

to: Regional Counsel, North-Atlantic Region CC:NA
ATTN: Anne Hintermeister

from: Director, Tax Litigation Division CC:TL

subject:

Review of Statutory Notice

This is to confirm our response to your request for technical advice in the above case. On August 29, 1988, Debra Fischer and Lawrence Mannix, National Office attorneys, advised William Davis, Manhattan District Counsel attorney, by telephone, of our response.

Your specific request concerned the language to be used in a proposed statutory notice of deficiency. In light of the lack of information concerning the valuation of certain items at issue, we recommended that the statutory notice adopt a broad, streamlined explanation of adjustments. We agreed with your proposal for the following language:

You have not established that you acquired an interest in property which is subject to an allowance for depreciation.

In addition, you have not established the basis for depreciation of such property.

We recommended that the following additional language be used to cover our disallowance of the investment tax credit amount to the extent that the taxpayer is found to have acquired intangible, depreciable property:

You also have not established that the property qualifies for an investment tax credit.

In addition, you outlined 8 issues pertaining to the nature of the rights and the character of the assets acquired in the transponder sale transaction. The ISP Manager and the National Office Coordinator agree that we do not have enough information

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about this case to designate it for litigation on the transponder sale issue, nor enough information about the industry as a whole. Therefore, we recommend that an ISP issue paper be prepared, using the information we have in this case and others that are in examination, to formulate a uniform Service position . This position may of course vary somewhat depending on the specific language in the particular transponder sale agreement. We will take the appropriate steps to generate the development of the position paper.

If you have any questions please contact Debra Fischer at (FTS) 566-3521.

MARLENE GROSS

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